

# OFFICE OF THE ATTORNEY GENERAL

83-00019



CHARLES A. GRADDICK  
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STATE OF ALABAMA  
OCT 14 1982

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Hon. Fred M. Scoggins  
Superintendent of Education  
Washington County Board  
of Education  
P. O. Drawer L  
Chatom, Alabama 36518

Boards of Education -  
Competitive Bid Law -  
Superintendents of Education -  
Expenses

Purchase of new or used  
automobiles by Board of  
Education must be made by  
competitive bid.  
Expense allowance of  
superintendent may be  
increased during term.

Dear Mr. Scoggins:

We are in receipt of your recent request for an opinion  
from our office on the following questions:

- I. "Does the Washington County Board of Education have the authority to purchase used automobiles through a licensed retailer automobile dealer from a public auction auto sale for use as instructional material for drivers' education courses being conducted at the several public schools in Washington County, Alabama? If so, may the Washington County Board of Education accept bids from retail automobile dealers relating to the brokerage fees which such dealers would charge?"

Hon. Fred M. Scoggins  
Page Two

- II. "Does the Washington County Board of Education have the authority under Local Act No. 81-317, adopted by the Legislature of the State of Alabama and approved on April 27, 1981, to increase by resolution the monthly expense allowance payable to the Superintendent of Education constituting reimbursement for travel expenses incurred in the performance of his duties within the boundaries of Washington County?"

Regarding question I, we refer to our opinion issued under date of March 25, 1980, to Hon. William A. Edwards, a copy of which is enclosed for your information. Our opinion is, as pointed out in that letter, that under the requirements of Section 41-16-50, Code of Alabama, 1975, you would be required to purchase these automobiles by competitive bid if the cost exceeds \$2,000.00. We are of the further opinion that the amount referred to is the cost of the item or items rather than any brokerage fee alone and that it would not be in keeping with the statute to receive bids only on the brokerage fee.

In answer to question II, we refer to our opinion under date of July 23, 1982, to Hon. Jerry H. Parham. Although increasing or decreasing the salary, fees, or any officer of the state, including county superintendents of education, during a term of office is prohibited by Constitution of Alabama, 1901, § 68, § 281 and amendment 92, expense allowances are not included. We have consistently held that monthly expense allowances of superintendents may be increased during a term provided they bear a reasonable relationship to actual expenses.

I trust this answers your questions. If we may be of further assistance, please contact us.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By-



PEGGY SCHMITZ  
Assistant Attorney General

PS:bd

Enclosures:2

# OFFICE OF THE ATTORNEY GENERAL



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80-00300

CHARLES A. GRADDICK  
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STATE OF ALABAMA

MAR 25 1980

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Honorable William A. Edwards  
President, City Board of Education  
Honorable Joseph B. Morton  
Secretary, City Board of Education  
P. O. Drawer 1127  
Sylacauga, Alabama 35150

Boards of Education-Competitive  
Bid Law-Leases

Purchase or lease of new or used  
automobiles by Board of Education  
must be made by competitive bid.

Gentlemen:

This office is in receipt of your request for an opinion concerning the proper application of the Competitive Bid Law as it relates to the two following questions:

1. May the Sylacauga City Board of Education purchase a used automobile(s) with public funds that has a purchase price of over \$2,000 and not receive bids?
2. May the Sylacauga City Board of Education lease an automobile(s) and not receive bids if the lease is in excess of \$2,000 annually?

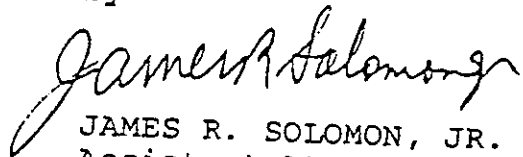
Section 41-16-50, Code of Alabama 1975, requires that all expenditures of funds of city boards of education (and other agencies) for labor, supplies or work or for the purchase or

Honorable William A. Edwards  
Honorable Joseph B. Morton  
Page Two

lease of materials, equipment, supplies, or other personal property involving \$2,000 or more shall be made under contractual agreement entered into by free and open competitive bidding, on sealed bids, to the lowest responsible bidder. There are certain exceptions to this requirement and such exceptions are set out in Section 41-16-51, Code of Alabama 1975. However, a review of these exceptions reveals that the purchase of a used automobile at a cost exceeding \$2,000 or the lease of a used or new automobile at an annual cost exceeding \$2,000 are not among the exceptions listed. I cannot find any other provision of law which would allow this to be done and both of your questions must, therefore, be answered in the negative.

Sincerely yours,

CHARLES A. GRADDICK  
Attorney General  
By-

  
JAMES R. SOLOMON, JR.  
Assistant Attorney General

JRS:bb

82-00468

# OFFICE OF THE ATTORNEY GENERAL



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JUL 23 1982

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Honorable Jerry H. Parham  
Superintendent  
Pickens County Board of Education  
P. O. Box 32  
Carrollton, Alabama 35447

Boards of Education -  
Superintendent of Education -  
Terms of Office -  
Compensation

1. Expense allowance of county superintendent of education may be increased during term of office.
2. Graduated salary may be set for county superintendent of education provided it is set in definite terms before term of office begins.

Dear Mr. Parham:

We have received your letter and resolution of the Board requesting an Attorney General's opinion on the following questions:

- 1) May the Board pay the Superintendent a \$250 per month expense allowance beginning during his terms of office?
- 2) May the Board pay the Superintendent a graduated salary increasing at the rate of \$1,000 per year over his four-year term, if the salary schedule was adopted before the beginning of his term?

Honorable Jerry H. Parham  
Page Two

Increasing or decreasing the salary, fees or compensation of any officer of the State, including the county superintendents of education, during a term of office is prohibited by Constitution of Alabama 1901, § 68, § 281 and Amendment 92. These provisions, however, do not apply to granting, increasing or decreasing expense allowances. We have held on numerous occasions that a flat monthly expense allowance may be granted or increased during a county superintendent's term of office provided the allowance bears a reasonable and substantial relationship to the actual expenses incurred. See inter alia, Opinion to Honorable Dan C. Henderson, Calhoun County Superintendent of Education, under date of September 12, 1980.

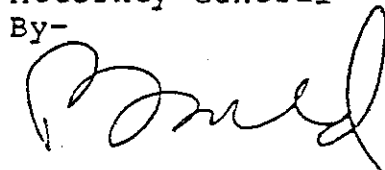
We have also previously held that a graduated salary scale for a county superintendent of education may be set provided it is set in definite, affirmative terms before the beginning of the term of office. See opinion to Honorable L. E. Gosa, Attorney, Lamar County Board of Education, under date of January 22, 1979. It appears that your salary schedule meets these requirements.

I hope this answers your questions. If I or this office can be of further assistance, please call on us.

Sincerely,

CHARLES A. GRADDICK  
Attorney General

By-



RONALD C. FOREHAND  
Assistant Attorney General

RCF/js